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PATENT
BALIN-56314

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Michael E. Tompkins, et al.

Serial No. 09/761,264

Filing Date: January 16, 2001

For: SPA CONTROL SYSTEM

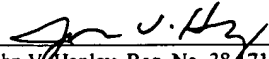
Date: March 26, 2002

Examiner:

Art Unit: 2153

Certificate of Mailing Under 37 C.F.R. § 1.8

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John V. Hanley, Reg. No. 38,771

**PETITION TO MAKE SPECIAL BECAUSE OF
ACTUAL INFRINGEMENT (37 C.F.R. § 1.102 AND M.P.E.P. § 708.02)**

Commissioner for Patents
Washington, D.C. 20231

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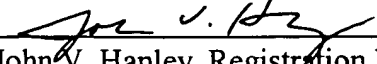
Technology Center 2100

Dear Sir:

Applicant hereby petitions to make this application special because of actual infringement. Accompanying this petition is a Statement by Assignee in Support of Petition to Make Special Because of Actual Infringement. Also enclosed is a fee to cover this petition. Authorization is hereby made to charge any additional fees required by this paper or credit any overpayment to our deposit account number 06-2425. A duplicate of this paper is attached.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
John V. Hanley, Registration No. 38,171

JVH:kst
Enclosures
6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310) 824-5555; (310) 824-9696 facsimile
#230878



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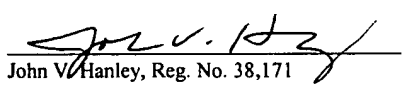
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John V. Hanley, Reg. No. 38,171

**STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

Commissioner for Patents
Washington, D.C. 20231

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Technology Center 2100

Dear Sir:

I, David Cline, am the President of Balboa Instruments, Inc., 1382 Bell Avenue, Tustin, CA 92780, an assignee of this case and make the following statements:

1. I have made a rigid comparison of the MSPA and SSPA model spa controls with the claims of this application. Such products are currently being sold by Gecko Electronique Inc.
2. That, in my opinion, claims 35-43, 46-55, 57 and 58 on file in this application are unquestionably infringed.

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3. I have caused to be made searches of the pertinent prior art. All such material art identified has been provided to the Examiner in Information Disclosure Statements filed in this case.

4. That I believe all the claims in this application as on file are allowable.

Date:

03/21/2002

A handwritten signature in dark ink, appearing to read "D. J. Cling", written over a horizontal line.

David J. Cling
President, Balboa Instruments Inc.

#230881